

Amend Section 5.51 and Add Subsection (b)(53.8) to Section 7.50,
Title 14, California Code of Regulations
Re: Davis Lake

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at Lake Davis, or its tributaries, to be immediately killed and returned to the tributary or lake, rather than be killed and turned in to the Department. The proposed effective date is May or June (or as soon as the regulatory process allows) and extend through a date between September 1 and October 15, 2007 whichever period of time in 2007 that would most appropriately fit with the project timeline. The possession limit would remain at ten trout. [Note: The exact ending date for the liberalized daily bag limit will be known by the Commission's March meeting, if a rotenone project is approved]. If a pike eradication project is implemented at Lake Davis, the proposed regulation that requires anglers to immediately kill and return to the lake any northern pike caught instead of being turned in to the Department would expire between September 1 and October 15, 2007 and the statewide pike regulation would again be in effect. Because of the time it would take for the Commission to notice, consider, and potentially adopt such a regulation, this regulatory proposal is being made prior to the approval of a pike eradication project and the effect of any such regulation would be contingent upon the approval of a project.

If the Department approves and implements a project to treat Lake Davis with a piscicide to eradicate northern pike, an illegally introduced species, most other fish species within the reservoir will also die. The liberalized limit for trout in the reservoir will allow for maximum use of this resource by anglers, which would otherwise be lost. The change in the pike regulation would still require that any pike caught in any water of California, other than Lake Davis, be killed immediately and turned in to the Department. At Lake Davis, an angler would not be allowed to possess a pike and the pike would have to be immediately killed and returned to the water.

Other species of game fish in the reservoir occur in low numbers and a regulation change for them would not result in any substantial benefit for anglers targeting these species at Lake Davis. Therefore, there are no changes proposed that would liberalize the bag limits for species other than trout. The Department does not recommend regulation changes that would allow anglers to possess pike, as any liberalization of these regulations could have the effect of people moving live pike out of Lake Davis. The movement of live pike has occurred under the current regulations. Liberalizing the pike regulations would likely exacerbate this problem.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 215, and 220, Fish and Game Code.

Reference: Sections 200, 202, 205, 215, and 220, Fish and Game Code.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

None.

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

The proposed regulation concept was included in the joint EIR/EIS that was available for review by the public for 45-days ending October 16, 2006.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

A number of people submitted public comments during the environmental review process for the proposed Lake Davis pike eradication project requesting a complete waiver of limits and license requirements. The Department considered this idea. A waiver of license requirements would require legislation. In addition, the Department believes that a complete waiver of limits and license requirements would create potential enforcement problems.

The Department also considered the suggestion to eliminate all limits on fish during summer months prior to the treatment. Since trout are not typically very vulnerable to anglers in the summer, the Department determined that a longer, but more liberal bag limit would benefit the greatest number of anglers and provide the community with access to the resources in Lake Davis throughout most of the angling year. Just taking the limit off during the summer months may not provide much additional harvest of the trout.

Over the past several years, anglers have occasionally asked the Department to change the existing northern pike regulation to allow them to keep and consume any northern pike caught. The Department does not believe this to be a good suggestion since it could lead to the illegal movement of pike from Lake Davis to other waters of the State.

(b) No Change Alternative:

If a chemical treatment of Lake Davis is approved, maintaining current regulations will not allow anglers an increased opportunity to harvest and enjoy trout that would not survive the treatment.

Department personnel are concerned that the current regulation requires an angler to kill the pike, remove it from the lake and turn the carcass in to the Department. The current regulation was established to assist the Department in collecting data about the pike in Lake Davis. As such, the current regulation permits the angler to possess the pike until they can turn in the carcass. If the Department approves a project to eradicate pike, collection of data about the pike in Lake Davis would not be necessary. As was observed in 2006 in connection with a Department checkpoint, pike can live for up to two hours out of water. If an angler is able to possess the pike until it can be turned in, an angler may decide to “dump” the fish rather than deal with locating a Department employee. This could result in the spread of pike to other waters of the state or region.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation is necessary.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This proposal provides more angling opportunity.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

Informative Digest/Policy Statement Overview

Current sport fishing regulations for Lake Davis, Plumas County, are governed by the Sierra District general regulations, which allow for an open season all year with a daily bag limit of five trout and ten in possession. Also, current statewide regulations require that any northern pike taken by an angler must be immediately killed and retained until the Department is notified and collects the northern pike. The Department must be notified by the angler within 24 hours that a northern pike was taken.

The California Department of Fish and Game (Department) is considering a project to eradicate northern pike (*Esox lucius*) from Lake Davis in the fall of 2007. As of the date of this Initial Statement of Reasons, a project has not been approved. However, if one is approved that involves the use of rotenone, the Department would request the Commission adopt a regulation to modify the existing trout fishery regulation for Lake Davis, Plumas County, and the northern pike regulation for the State. The proposed regulation changes would: 1) temporarily increase the daily bag limit from five to ten trout per day, and 2) require any northern pike caught at Lake Davis, or its tributaries, to be immediately killed and returned to the tributary or lake, rather than be killed and turned in to the Department. The proposed effective date is May or June (or as soon as the regulatory process allows) and extend through a date between September 1 and October 15, 2007 whichever period of time in 2007 that would most appropriately fit with the project timeline. The possession limit would remain at ten trout. [Note: The exact ending date for the liberalized daily bag limit will be known by the Commission's March meeting, if a rotenone project is approved]. If a pike eradication project is implemented at Lake Davis, the proposed regulation that requires anglers to immediately kill and return to the lake any northern pike caught instead of being turned in to the Department would expire between September 1 and October 15, 2007 and the statewide pike regulation would again be in effect. Because of the time it would take for the Commission to notice, consider, and potentially adopt such a regulation, this regulatory proposal is being made prior to the approval of a pike eradication project and the effect of any such regulation would be contingent upon the approval of a project.

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